

REMARKS

In the Office Action mailed March 17, 2008, the Examiner required restriction to one of the following inventions:

Group I: Claims 29-43, drawn to a method of preparing a transplant acceptance inducing cell;

Group II: Claims 44-50, drawn to a transplant acceptance inducing cell;

Group III: Claims 51-52, drawn to a method for the suppression of transplant rejection;

Group IV: Claims 53-70, drawn to a method for generating a regulatory T lymphocyte;

Group V: Claims 71-72, drawn to a monoclonal antibody and a hybridoma producing said antibody; and

Group IV: Claim 73, drawn to a method for detection of a transplant acceptance inducing cell.

Applicants respectfully traverse the restriction requirement and provisionally elect the subject matter of Group III, presented in Claims 51 and 52, drawn to a method for the suppression of transplant rejection, for further prosecution. Applicants, however, submit that the Office has not proven that the search and examination of the entire application would impose an undue burden. Applicants submit that the complete examination would be handled most expeditiously by treating all of the pending claims as a single entity. As MPEP §803 directs, “[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.” Applicants respectfully submit that the Examiner has not shown that a search and examination of the entire application would cause a serious burden. Rather, a serious burden would arise if the application were restricted.

Applicants submit that the restriction requirement is inappropriate. For example, Applicants contend that Groups III and IV should be examined simultaneously because they are related as methods of using transplant acceptance-inducing cells. The Examiner alleges that the inventions of Groups III-IV have no special technical feature that defined the contribution over

the prior art of Munn *et al.* (*Journal of Immunology*, 156(2):523-532 (1996)). Office Action at page 2. Thus, the Examiner argues that method of the present invention cannot be considered a special technical feature, as lack of unity rules hold that a feature known to a person of ordinary skill in the art makes no advance over the prior art. Applicants respectfully submit that the Examiner has mistaken the claimed invention and the technical feature described in Munn *et al.* to be the same.

Based upon the foregoing, Applicants submit that the restriction requirement is improper and therefore must be withdrawn. In order to facilitate prosecution, however, Applicants have provisionally elected, with traverse, the subject matter of Group III, presented in Claims 51 and 52, drawn to a method for the suppression of transplant rejection, for further prosecution. Applicants have canceled claims 1-50 and 53-73 without prejudice or disclaimer to the claimed subject matter. Applicants reserve the right to prosecute the non-elected inventions in divisional applications. Claims 51 and 52 are amended without prejudice or disclaimer. Claims 74-105 are newly added and are believed to be within the elected restriction group. Support for the claim amendments and newly added claims may be found, for example, in the Specification at page 2, lines 15 to 23; page 14, line 25 to page 15, line 4; page 16, lines 9 to 12; page 20, lines 5 to 26; page 20, line 28 to page 21, line 2; page 21, lines 4 to 13; page 25, lines 30 to 35; page 26, line 14 to page 27, line 24; page 30, lines 29 to 33; page 30, lines 16 to 21; page 31, lines 1 to 6; page 31, lines 19 to 22; at page 32, lines 4 to 18; and at page 40, line 1 to page 48, line 2. No new matter is added by way of the present amendment.

CONCLUSION

In view of the above, each of the presently pending claims is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue. The Examiner is encouraged to contact the undersigned at (202) 942-5186 should any additional information be necessary for allowance.

Respectfully submitted,



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